

AMENDED IN ASSEMBLY AUGUST 24, 2006

AMENDED IN ASSEMBLY AUGUST 22, 2006

AMENDED IN ASSEMBLY AUGUST 14, 2006

AMENDED IN SENATE MAY 26, 2006

AMENDED IN SENATE APRIL 19, 2006

## **SENATE BILL**

**No. 1674**

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### **Introduced by Senator Murray**

(Principal coauthor: Assembly Member Negrete McLeod)

**(Coauthors: Senators Ashburn, Denham, Maldonado, and  
Romero)**

(Coauthors: Assembly Members Chan, Garcia, Koretz, Leno, Lieber,  
Matthews, and Yee)

February 24, 2006

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An act to amend Sections 41350, 49430.5, 49531, and 49536 of, and to add Section 49437 to, the Education Code, relating to school meals, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

#### LEGISLATIVE COUNSEL'S DIGEST

SB 1674, as amended, Murray. Public schools: meal reimbursement.

(1) Existing law requires the Superintendent of Public Instruction to make allowances for child nutrition to child nutrition entities, as defined, based on reimbursement rates for free and reduced-price meals and to school districts and county superintendents of schools for the differences between the current fiscal year average statewide cost

for all free and reduced-price meals and the total income per meal, as specified.

Existing law permits any child nutrition entity to apply to the State Department of Education for all available federal and state funds so that a nutritionally adequate breakfast or lunch, or both, may be provided to pupils each schoolday at each school in the districts or maintained by the county superintendents of schools, or at private schools and parochial schools and to children receiving child development services. Existing law limits state reimbursement to meals provided to pupils who are within the relevant definitions and criteria in federal statutes and regulations that prescribe eligibility for free and reduced-price meals.

Existing law requires the department, prior to July 1 each year, to prescribe an adjustment in the established state meal contribution rates based on the specified cost-of-living adjustment.

Existing law sets the per meal reimbursement rate received by elementary, middle, and high schools for free and reduced-price meals at 21¢. Existing law requires schools to follow specified state and federal guidelines in order to qualify for reimbursement. Existing law requires that the reimbursement rates be adjusted annually for cost of living increases, as specified.

This bill would ~~require, commencing with the 2006–07 fiscal year, the extend that~~ reimbursement rate for free and reduced-price meals ~~for schools and to specified child development programs, instead of only schools, that. The bill would require schools and specified child development programs to follow specified state and federal nutrition guidelines and other specified requirements in order to be receive the 21¢ reimbursement.~~ The bill would require the educational entity seeking the reimbursement to ~~notify the department of an intent to self-certify compliance with the other~~ *comply with certain meal pattern or menu planning* requirements, as specified, in order to receive the 21¢ reimbursement for the 2006–07 fiscal year. The bill would require, beginning July 1, 2007, the educational entity seeking the reimbursement to provide the department with a ~~one-time certification self-certification of compliance by schools and child developments programs with the other requirements, as specified, a requirement commencing July 1, 2007, not to sell or serve any food item, the final preparation method for which, prior to serving, requires the item to be deep fried, as defined, in order to continue to~~

be eligible for the 21¢ reimbursement *during the 2007–08 fiscal year and thereafter.*

The bill would specify 15.63¢ as the reimbursement rate for schools and specified child development programs that do not meet the specified requirements for the 21¢ reimbursement. The bill would eliminate the requirement that the adjustments to the default reimbursement rate reflect the changes in the cost of operating a school breakfast and lunch program, rather than only the standard cost-of-living adjustment, and be made, rather than only prescribed, beginning July 1 of each year.

(2) The bill would appropriate \$37,800,000 from the General Fund to the Superintendent for transfer to Section A of the State School Fund in augmentation of the amount appropriated in a specified item of the Budget Act of 2006 for purposes of certain child nutrition programs. The bill would provide that, for purposes of satisfying the minimum annual funding obligation for school districts and community college districts required under the California Constitution, those funds are General Fund revenues appropriated for school districts and community college districts for the 2006–07 fiscal year.

(3) This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: yes. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 41350 of the Education Code is  
2 amended to read:  
3 41350. The Superintendent shall make allowances for child  
4 nutrition as follows:  
5 (a) Reimbursement of child nutrition entities, as defined by  
6 Section 49530.5, and other educational entities specified pursuant  
7 to Section 49430.5 for all free, ~~reduced-price, and paid meals and~~  
8 *reduced-price meals*, pursuant to Sections 49430.5 and 49536.  
9 (b) Reimbursement of school districts and county  
10 superintendents of schools for the difference between the current  
11 fiscal year average statewide lunch or breakfast cost for all free  
12 and reduced-price meals required by Section 49550 as  
13 determined by the Superintendent and the combined total income

1 per meal derived from pupil charges, federal funds, and state  
2 funds as provided in Article 11 (commencing with Section  
3 49550) of Chapter 9 of Part 27.

4 (c) The combined state and federal reimbursements shall not  
5 exceed the current fiscal year average statewide lunch or  
6 breakfast cost. If the combined pupil charges, state  
7 reimbursements, and federal reimbursements exceed the current  
8 average statewide lunch or breakfast costs, the federal funds shall  
9 be expended prior to the expenditure of any state funds.

10 SEC. 2. Section 49430.5 of the Education Code is amended to  
11 read:

12 49430.5. (a) Beginning with the 2006–07 fiscal year, the  
13 reimbursement rate shall be twenty-one cents (\$0.21) for a school  
14 or child development program operated pursuant to Chapter 2  
15 (commencing with Section 8200) ~~or Chapter 2.5 (commencing~~  
16 ~~with Section 8400)~~ of Part 6 that sold or served free and  
17 reduced-price meals to pupils in elementary, middle, or high  
18 schools ~~included~~ within a school district, charter school,  
19 *community college district*, or county office of education and that  
20 meets the requirements of subdivision (b) or (c). Any school or  
21 child development program that does not meet the requirements  
22 of subdivision (b) or (c) shall receive the reimbursement rate  
23 provided pursuant to Section 49536.

24 (b) In order to qualify to receive the reimbursement increase  
25 pursuant to subdivision (a), a school specified in subdivision (a)  
26 shall satisfy both of the following:

27 (1) Follow the United States Department of Agriculture  
28 (USDA) nutritional guidelines through the use of any of the  
29 following:

30 (A) The Traditional Food-Based Menu Planning Approach,  
31 Enhanced Food-Based Menu Planning Approach, or Nutrient  
32 Standard Menu Planning Approach, developed by the USDA.

33 (B) Any USDA-approved Alternate Menu Planning Approach  
34 (Any Reasonable Approach), which includes California's  
35 Shaping Health as Partners in Education (SHAPE) menu  
36 patterns, as approved by the State Department of Education.

37 (C) Any other USDA-approved meal pattern or menu  
38 planning.

1 (2) ~~Not Commencing July 1, 2007, not~~ sell or serve any food  
2 item, the final preparation method for which, prior to serving,  
3 requires the item to be deep fried.

4 (c) In order to qualify to receive the reimbursement increase  
5 pursuant to subdivision (a), a child development program  
6 specified in subdivision (a) shall satisfy both of the following:

7 (1) Meet developmentally and programmatically appropriate  
8 meal pattern or meal planning requirements developed by the  
9 USDA.

10 (2) ~~Not Commencing July 1, 2007, not~~ sell or serve any food  
11 item, the final preparation method for which, prior to serving,  
12 requires the item to be deep fried.

13 (d) A school district, charter school, county office of  
14 education, or child development program defined in subdivision  
15 ~~(a) shall notify the department of an intent to self-certify~~  
16 ~~compliance with paragraph (2) of subdivision (b) or paragraph~~  
17 ~~(2) of subdivision (c) (a) shall comply with paragraph (1) of~~  
18 ~~subdivision (b) in order to receive the reimbursement specified in~~  
19 ~~subdivision (a) for the 2006–07 fiscal year. A school or child~~  
20 ~~development program specified in subdivision (a) is eligible to~~  
21 ~~receive the reimbursement increase specified in subdivision (a)~~  
22 ~~for free and reduced-price meals sold or served within a school~~  
23 ~~district, charter school, community college district, or county~~  
24 ~~office of education during the time period between July 1, 2006~~  
25 ~~and the date upon which Senate Bill 1674 of the 2005–06~~  
26 ~~Regular Session becomes effective.~~

27 (e) Beginning July 1, 2007, in order to be eligible to receive  
28 the reimbursement specified in subdivision (a), a school district,  
29 charter school, county office of education, or child development  
30 program ~~defined specified~~ in subdivision (a) shall provide the  
31 department with a ~~one-time certification~~ self-certification of  
32 compliance with paragraph (2) of subdivision (b) or paragraph  
33 (2) of subdivision (c) *as part of the annual renewal process of*  
34 *the State Department of Education.*

35 (f) The reimbursement rates set forth in this section shall be  
36 adjusted annually for increases in cost of living in the same  
37 manner set forth in Section 42238.1.

38 (g) A school or child development program ~~that meets the~~  
39 ~~definition specified~~ in subdivision (a) may apply for the

1 reimbursement provided by this section and any other  
2 reimbursements provided by this code.

3 SEC. 3. Section 49437 is added to the Education Code, to  
4 read:

5 49437. For purposes of this article, “deep fried” means any  
6 food item that is cooked by total submersion in oil or fat.

7 SEC. 4. Section 49531 of the Education Code is amended to  
8 read:

9 49531. (a) Any child nutrition entity or other educational  
10 entity specified in Section 49430.5, may apply to the State  
11 Department of Education for all available and applicable federal  
12 and state funds so that a nutritionally adequate breakfast or lunch,  
13 or both, may be provided to pupils each schoolday at each school  
14 in the districts or maintained by the county superintendents of  
15 schools, or at private schools and parochial schools, and to  
16 children receiving child development services. The state board  
17 shall adopt rules and regulations for the operation of lunch and  
18 breakfast programs in school districts. A child nutrition entity  
19 that receives state funds pursuant to this article shall provide  
20 breakfasts and lunches in accordance with state and federal  
21 guidelines.

22 (b) A nutritionally adequate breakfast, for purposes of this  
23 article, is one that qualifies for reimbursement under the federal  
24 child nutrition program regulations, meets a minimum of  
25 one-fourth of the current Recommended Dietary Allowance  
26 established by the National Research Council, and incorporates  
27 the current United States Dietary Guidelines for Americans. A  
28 nutritionally adequate lunch is one that qualifies for  
29 reimbursement under the federal child nutrition program  
30 regulations, meets one-third of the Recommended Dietary  
31 Allowance established by the National Research Council, and  
32 incorporates the current United States Dietary Guidelines for  
33 Americans.

34 (c) State reimbursement for free and reduced-price meals  
35 provided pursuant to this article or Section 49430.5 shall be  
36 limited to meals provided to pupils who are within the relevant  
37 definitions and criteria in federal statutes and regulations that  
38 prescribe eligibility for free and reduced-price meals.

39 SEC. 5. Section 49536 of the Education Code is amended to  
40 read:

1 49536. (a) The State Department of Education shall, prior to  
2 July 1 of each year, prescribe an adjustment in the state meal  
3 contribution rates established pursuant to this section for the  
4 forthcoming fiscal year.

5 (b) Beginning with the 2006–07 fiscal year, the  
6 reimbursement rates established pursuant to this section shall be  
7 fifteen and sixty-three hundredths cents (\$0.1563) for free and  
8 reduced-price meals provided pursuant to this article. The  
9 reimbursement rates set forth in this section shall be adjusted  
10 annually for increases in the cost of living in the same manner as  
11 set forth in Section 42238.1.

12 SEC. 6. (a) The sum of thirty-seven million eight hundred  
13 thousand dollars (\$37,800,000) is hereby appropriated from the  
14 General Fund to the Superintendent of Public Instruction for  
15 transfer to Section A of the State School Fund in augmentation of  
16 the amount appropriated in Schedule (1) of Item 6110-203-0001  
17 of Section 2.00 of the Budget Act of 2006.

18 (b) For the purposes of making the computations required by  
19 Section 8 of Article XVI of the California Constitution, the  
20 appropriation made by subdivision (a) shall be deemed to be  
21 “General Fund revenues appropriated for school districts,” as  
22 defined in subdivision (c) of Section 41202 of the Education  
23 Code, and “General Fund revenues appropriated for community  
24 college districts,” as defined in subdivision (d) of Section 41202  
25 of the Education Code, for the 2006–07 fiscal year, and included  
26 within the “total allocations to school districts and community  
27 college districts from General Fund proceeds of taxes  
28 appropriated pursuant to Article XIII B,” as defined in  
29 subdivision (e) of Section 41202 of the Education Code, for the  
30 2006–07 fiscal year.

31 SEC. 7. This act is an urgency statute necessary for the  
32 immediate preservation of the public peace, health, or safety  
33 within the meaning of Article IV of the Constitution and shall go  
34 into immediate effect. The facts constituting the necessity are:

35 In order to provide the increased reimbursement rate for school  
36 meals to schools in a timely manner, it is necessary that this act  
37 take effect immediately.

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